

Sixth Appellate District

San Jose, California

MONDAY, AUGUST 15, 2005

H027675 NMSBPCSLDHB et al. v. CHAVEZ et al.

The order dismissing the action pursuant to Tenant's special motion to strike under section 425.16 is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed August 15, 2005

H027785 PEOPLE v. RIVERA

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed August 15, 2005

TUESDAY, AUGUST 16, 2005

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; McAdams, J.; Walsh, J.*; and Jane Valdez Flor, Deputy Clerk.

(*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

H026581 PEOPLE v. NGUYEN

Cause called and argued by Maureen L. Fox appearing for Appellant and by Morris Lenk, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Walsh, J.* leaves the bench and Duffy, J. takes the bench.

(*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

H028059 CIKALO v. CIKALO

Cause called and argued by Stuart Fishman appearing for Appellant and by Jeralyn Kay Spradlin appearing for Respondent. Cause ordered submitted.

Duffy, J. and McAdams, J. leave the bench and Premo, J., and Elia, J. take the bench.

Sixth Appellate District

San Jose, California

Tuesday, August 16, 2005 (continued)

H027532 MWANIKI v. E-BAY, INC.

Cause called and argued by Michael G. Ackerman appearing for Appellant and by Christopher T. Scanlan appearing for Respondent. Cause ordered submitted.

H027977 ROBERT CECIL, As Public Administrator, etc. v. TOPETE

H028106 TOPETE v. ROBERT CECIL, as Public Administrator, etc.

Causes called. Alexander F. Eagle appeared for Appellant and waived oral argument. Mark A. Gonzalez, Deputy County Counsel, appeared for Respondent. Causes ordered submitted. Court recesses until 1:30 p.m.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and Beth Miller, Deputy Clerk.

H027762 PEOPLE v. DOMINGUEZ

Cause called and argued by Frank J. McCabe appearing for Appellant and by Ann P. Wathen, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027782 PEOPLE v. PEREZ

Cause called and argued by Jeremy D. Blank appearing for Appellants and by Sara Elizabeth Turner, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H027768 WELCH, et al. v. KHOO, et al.

Cause called and argued by Ellen Ridley appearing for Appellants and by Carlos Alvarez appearing for Respondents. Cause ordered submitted.

H027976 FIRESIDE BANK v. SUPERIOR COURT (GONZALEZ)

Cause called and argued by Jan Chilton appearing for Petitioner and by Carol Mclean Brewer appearing for Real Party in Interest. Cause ordered submitted. The court is adjourned.

H027847 PEOPLE v. TARANGO

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 16, 2005

Sixth Appellate District

San Jose, California

Tuesday, August 16, 2005 (continued)

H026751 TERRY v. CONLAN

H026887 TERRY v. CONLAN

H027302 TERRY v. CONLAN

In Appeal No. 1 - H026751, the judgment is reversed. Costs on appeal are awarded to petitioner, Ione Conlan.

The Children's motion to dismiss Appeal No. 1 - H026751 is denied.

In Appeal No. 2 - H026887, the trial court's order that the trustee is permitted to use trust income to pay attorney fees incurred by the Trustee in asserting the Children's position in the dispute in Appeal No. 1 - H026751, and any attorney fees and costs incurred in the future as a result of the trustee asserting the Children's position in the dispute in Appeal No. 1- H026751 is reversed. Costs on appeal are awarded to petitioner Ione Conlan.

In light of our reversal of the judgment in Appeal No. 1 - H026751, Appeal No. 3 - H027302 is dismissed as moot. (published) (Rushing, P.J.; We concur: Elia, J., McAdams, J.)
Filed August 16, 2005

WEDNESDAY, AUGUST 17, 2005

H028050 In re VINCENT M.; SANTA CRUZ CO. HUMAN RESOURCES AGENCY v. VINCENT M., et al.

By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated July 21, 2005, is hereby vacated. The court by separate letter issued August 10, 2005, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.

Dated: August 17, 2005 Bamattre-Manoukian, Acting P.J.

H028110 PEOPLE v. CORONADO

By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated June 8, 2005, is hereby vacated. The court by separate letter issued August 15, 2005, has requested formal briefing from the parties in accordance with rules 37.3 and 33 of the California Rules of Court. The cause will be resubmitted upon completion of briefing and oral argument if requested. Appellant's opening brief shall be filed within 30 days from the date of this order.

Dated: August 17, 2005 Elia, Acting P.J.

Wednesday, August 17, 2005 (continued)

H028145 DALY v. YESSNE, et al.

Sixth Appellate District

San Jose, California

The order and judgment are affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 17, 2005

H026909 PEOPLE v. MAY

The judgment on the misdemeanor battery count is reversed.
In all other respects, the judgment is affirmed. (not published)
(McAdams, J.; I concur: Mihara, J.; concurring and dissenting
opinion by Bamattre-Manoukian, Acting P.J.)
Filed August 17, 2005

The Court met in its courtroom at 333 West Santa Clara
Street, Suite 1060, San Jose, California. Present: Rushing, P.J.
and Jossie Michel Casique, Deputy Clerk.

H028810 PEOPLE v. LYONS

Cause called for order to show cause hearing re contempt of
court for failure to file a timely reporter's transcript.
Katherine Giocondi, Linda Vallejos, Sally Bubnis and Sandra
Salazar are present. Court Reporter Katherine Giocondi, still
under oath, informs the court that she has not prepared the
reporter's transcript on appeal. The Court orders that she is
suspended for ten days. If the reporter's transcript is not
prepared by August 27, 2005, the court will extend the suspension
for an additional twenty days. The court discusses the issuance
of the order to show cause and procedures with Court Reporter
Supervisor, Sandra Salazar. Court is adjourned.

H027610 SEMPERVIRENS FUND, et al. v. FOX, et al.

The order of substituted judgment is affirmed. The parties
shall bear their own costs on appeal. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 17, 2005

H028323 PEOPLE v. GONZALEZ

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams,
J.)
Filed August 17, 2005

Sixth Appellate District

San Jose, California

Wednesday, August 17, 2005 (continued)

H027515 SANTA CLARA COUNTY DEPT. OF CHILD SUPPORT SERVICES v.
NADASDY

By the Court*:

Appellant's petition for rehearing is denied.

Filed: August 17, 2005

*Before Bamattre-Manoukian, Acting P.J., Mihara, J. and McAdams,
J.

THURSDAY, AUGUST 18, 2005

H028130 PEOPLE v. ENGLISH

The abstract of judgment is ordered modified to reflect a
restitution fine of \$200. As so modified, the judgment is
affirmed. The superior court is ordered to send a certified copy
of the corrected abstract of judgment to the Department of
Corrections. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams,
J.)

Filed August 18, 2005

H028289 PEOPLE v. WILKINS

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams,
J.)

Filed August 18, 2005

H027876 JAHN, et al. v. GROSS, et al.

The motion for sanctions is denied. The judgment is
affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy,
J.)

Filed August 18, 2005

H028357 PEOPLE v. CAMACHO

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams,
J.)

Filed August 18, 2005

Sixth Appellate District

San Jose, California

Thursday, August 18, 2005 (continued)

H027313 PEOPLE v. SALDANA

The judgment is modified by striking the order for \$2,000 attorney's fees. The abstract of judgment is ordered corrected as follows: the term imposed on count 3 is one year (one-third the middle term); the term imposed on count 4 is one year, eight months (one-third the middle term); the term imposed on the section 12022, subdivision (a)(1) enhancement on count 3 is four months (one-third the one-year enhancement); and the term imposed on the section 12022.53, subdivision (b) enhancement on count 4 is three years, four months (one-third the 10-year enhancement). As so modified, the judgment is affirmed. The clerk of the superior court is directed to prepare a corrected abstract of judgment and to forward a copy of the corrected abstract of judgment to the Department of Corrections. (not published) (Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed August 18, 2005

H028148 PEOPLE v. HILL

The judgment is affirmed. (not published) (Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed August 18, 2005

H028057 In re OCHOA on Habeas Corpus

(Filed order modifying opinion.) The petition for rehearing is denied. There is no change in judgment. (not published) (Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed August 18, 2005

H025213 LE FRANCOIS et al. v. GOEL et al.

By the Court:

In accordance with the opinion of the California Supreme Court entered on June 9, 2005, the above-entitled cause is remanded to the Santa Clara County Superior Court for further proceedings consistent with the opinion of the Supreme Court. Appellants shall recover their costs. (Rushing, P.J., Premo, J., and Elia, J. participated in this decision)

Dated August 18, 2005

Rushing, P.J.

Sixth Appellate District

San Jose, California

Thursday, August 18, 2005 (continued)

H027573 PEOPLE v. FRANCISCO

By the Court*:

Appellant's petition for rehearing is denied.

Filed: August 18, 2005

*Before Bamattre-Manoukian, Acting P.J., Mihara, J. and McAdams, J.

H028163 PEOPLE v. PEDRO T.

By the Court*:

Appellant's petition for rehearing is denied.

Filed: August 18, 2005

*Before Rushing, P.J., Premo, J. and Elia, J.

FRIDAY, AUGUST 19, 2005

H028335 PEOPLE v. ANYAFULU

The order denying defendant's Penal Code section 1203.4 application is affirmed. (not published)

(Duffy, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed August 19, 2005

H028235 PEOPLE v. ALDAMA

The judgment is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed August 19, 2005

H027913 PEOPLE v. SALAZAR

The request for publication of the opinion filed in the above entitled action by respondent is denied. The opinion does not establish a new rule of law, nor does it meet any of the other criteria set forth in California Rules of Court, rule 976(c).

In compliance with California Rules of Court, rule 978, the Clerk shall transmit the request for publication and a copy of this order to the Supreme Court.

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed August 19, 2005

Sixth Appellate District

San Jose, California

H027751 HURST, as Trustee, etc. v. THREE SPRINGS RANCH
HOMEOWNERS ASSOCIATION; RUDE, et al.

The request for publication of the opinion filed in the above entitled action by Attorney Margaret G. Wangler with the law firm of Fiore, Racobs & Powers is denied. The opinion does not establish a new rule of law, nor does it meet any of the other criteria set forth in California Rules of Court, rule 976(c).

In compliance with California Rules of Court, rule 978, the Clerk shall transmit the request for publication and a copy of this order to the Supreme Court.

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed August 19, 2005